



"Good enough won't do - it must be right." K.B. Danuser, Founder 1910

January 10, 2011

Dear Friends:

I need your help. Missouri manufacturers and employees need your help. I propose changing Missouri law to help protect, retain, and attract jobs in Missouri. I am sending this letter to the organizations listed at the bottom of this letter. I ask you to copy this and send it on to anyone you think can be of help. We need a united front in Jefferson City to make things happen.

I am the third-generation President of Danuser Machine Company (DMC) in Fulton, Missouri. We just celebrated our 100th year in business as a family-owned business. The fourth generation is actively involved running the Company on a daily basis. Our hopeful fifth generation is three years old. We currently have 52 employees with an average employment of 17.5 years. The general economy and current challenges have reduced our work force. One of the greatest challenges is product liability.

DMC started producing tractor mounted post hole diggers in the mid-1940's. At that time, there were no safety standards for post hole diggers. Today, we have guarding in three different locations and safety signs (decals) all over our machines. Although our first post hole diggers were not guarded or covered in decals, safety has always been foremost in DMC products. Post hole diggers went from a hand-powered tool to a tractor-powered implement. Danuser Diggers were designed to "Dig Holes Sitting Down," with one operator sitting in the tractor seat.

One of the problems with producing quality equipment is that there is a large number of old Danuser Diggers still around. I call that a problem, because most of them have not been updated to current safety standards. Worse yet, we have no way of knowing where those old post hole diggers are located. We utilize several avenues to identify our customers and notify them of product updates, but there is no way to contact all of our customers. We advertise safety. We give free manuals and safety signs to those who contact us. We sell safety parts at our cost. We have done and still do the right thing. In the words of my grandfather, our motto remains, "Good enough won't do – it must be right."

Doing the right thing has come at a heavy price. Our customers risk losing American-made, Missouri-made, quality equipment, and our employees and their families are at risk. Every day, my family worries about the livelihoods of 52 other families, the larger Danuser Family. To compare today's safety standards to equipment from the mid 1940's is unreasonable. To sue Danuser Machine Company on an old post hole digger is like suing Ford Motor Company because their mid-1940's cars didn't have seat belts or air bags. There was simply a time when today's safety items were not on their machines.

I ask you to get involved as a part of a group of Missourians who are tired of risking Missouri jobs and quality Missouri-made products. Please be a part of the change, as other states already have, to protect their workers. Here are some items I think need to be addressed:



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1. Missouri has a statute of limitations, but it is lacking a statute of repose. Colorado has a 10-year statute of repose for manufactured equipment. Utah includes in its statute of limitations a mandate that actions shall not be brought more than 6 years after the date of initial purchase or 10 years after the date of manufacture of a product.
2. If after the initial sale of a product, someone alters or modifies it, changing the product purpose, use, function, design, and/or intended use stated by the manufacturer, then alteration or modification should be an absolute defense.
3. Individuals under the influence of alcohol or drugs should take personal responsibility and not be allowed to file suit.
4. Trying to apply today's standards to products manufactured years ago should be considered inadmissible evidence. Kansas law prohibits submission of evidence in product liability cases concerning advances in technology or changes in manufacturing process after the product was designed and sold.
5. Strict liability should be based upon the manufacturer's stated use of the product. When it comes to a Danuser Digger, I am astounded that anyone would think putting a tractor-powered, spinning auger between your legs would be "reasonably anticipated use." A manufacturer should be able to state the intended use of the product. If someone deviates from that stated use, then there should be no case.
6. I do not want the United States to follow the rest of the world on a lot of issues, but our contingency-based legal system needs to change. Virtually everywhere else has a loser-pay system. Every time I successfully defend my company and my products, I still lose. It costs me thousands of dollars and time that I would rather put back into growing my family business. To sue on contingency is like free lottery tickets; you have nothing to lose and everything to gain.

Please let me know if I can count on your help. I know a Representative and a Senator who will help us, but we need a coordinated effort from everyone to make this happen. We need to get started now.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jerry Danuser". The signature is fluid and cursive, with the first name "Jerry" being more prominent than the last name "Danuser".

Jerry Danuser, President

CC: Association of Equipment Manufacturers (AEM)
Associated Industries of Missouri (AIM)
Callaway County Chamber of Commerce
Farm Equipment Manufacturers Association (FEMA)
Fulton Area Development Corporation (FADC)
Missouri Chamber of Commerce and Industry, Missouri Farm Bureau (MFB)
Missouri Organization of Defense Lawyers (MODL)
National Association of Manufacturers (NAM)
National Federation of Independent Business (NFIB)